

REMARKS/ARGUMENTS

Favorable reconsideration of this application in light of the following discussion is respectfully requested.

Claims 1-21 are pending in this case.

In the outstanding Office Action, Claims 1-18, 20, and 21 were rejected under 35 U.S.C. §103(a) as unpatentable over Vaudreuil (U.S. Patent No. 5,740,230) in view of Thorne et al. (U.S. Patent No. 5,958,005, hereinafter "Thorne") and Ogilvie (U.S. Patent No. 6,711,608). Claim 19 was rejected under 35 U.S.C. §103(a) as unpatentable over Vaudreuil in view of Thorne and further in view of Yokomizo (U.S. Patent No. 6,163,796).

With regard to the rejection of Claim 1 under 35 U.S.C. §103(a) as unpatentable over Vaudreuil in view of Thorne and Ogilvie, that rejection is respectfully traversed.

Independent Claim 1 recites in part:

a plurality of message gateways, each message gateway being configured to receive and transmit over at least one dedicated transfer medium, and
a message broker connected to the message gateways and being provided with a client database,
wherein a first message gateway receives a message in a first format from a sending client over a first transfer medium and transmits the message and/or an information extracted thereof to the message broker, the message broker automatically selects an appropriate second transfer medium depending on the content of the client database and supplied message and/or information extracted thereof, and the message is sent in a second format to the target client by means of a second message gateway configured for a transmission over the second transfer medium selected by the message broker, and
wherein messages include meta information containing a plurality of different fields, ***said meta information including a secure read count value indicating the current number of times the message has been read and a maximum read count value limiting the maximum reads of the message,***
wherein the message broker controls the message flow by inspecting the meta information of the messages.

The outstanding Office Action conceded that Vaudreuil does not teach or suggest "a secure read count value" or "a maximum read count." The outstanding Office Action cited

the message read times counter of Thorne as describing these features.¹ However, the cited portions of Thorne only describe a message read times counter is incremented each time the message is read.² It is respectfully submitted that the message read times counter of Thorne is not “a secure read count value.”

In this regard, the outstanding Office Action asserts that, in Thorne, a read count value is “intended” to be included in the message. The outstanding Office Action, however, admits that Thorne is silent on the exact details of this feature. The outstanding Office Action provides the following arguments as to why the read count value of Thorne is “intended” to be included in the message.

It is noted that the only two bases for citation of a reference for a feature are (1) that the reference explicitly teaches the subject matter, or (2) that the reference inherently teaches the subject matter. As the outstanding Office Action has conceded that Thorne does not explicitly teach the claimed subject matter, it is assumed that the assertion that a read count value is “intended” to be included in the message is an assertion that Thorne inherently teaches the claimed subject matter.

It is initially noted that the fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993). (Emphasis in original). “In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art.” *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). (Emphasis in original). In the present case, it is respectfully submitted that Thorne does not necessarily describe the claimed subject matter. See MPEP §2112.

¹See the outstanding Office Action at page 4, lines 6-11.

²See Thorne, column 8, lines 1-20, column 11, lines 5-12, and Figure 5B steps 560,562.

The first argument given is that Fig. 5B, step 560 refers to a “message read field” which, according to the outstanding Office Action would imply a header field. It is respectfully submitted that the outstanding Office Action's interpretation that the “message read field” is a header field is - when deciding this question on the basis of the possible meanings and uses of the word “field” -is not explicitly or inherently supported by Thorne. “Field” is a widely employed expression and is not *necessarily* restricted to the meaning of a “header field.” Furthermore, when speaking of the information comprised in the message header, Thorne uses the term “flag.”³ Thus, the fact that Figure 5B, step 560 of Thorne refers to a message read field and not to a message read flag - assuming a consistent nomenclature - *indicates that the “message read field” is not included in the message.*

The second argument provided by the outstanding Office Action is that column 8, lines 28-34 of Thorne describes “the intention of the invention is to insert into the message ‘packet header flags to cause each recipient computer or processor to respond to the commands created by the completion of the template’ (the template includes limiting the display time).”

However, it is respectfully submitted that the device described by Thorne is achieved with or without including a “message read field” in the message. This can, for example, be seen from the fact that steps 560, 562 and 564 of Figure 5B of Thorne can be executed irrespective of the location of the message read field. Therefore, this argument does not provide grounds for substantiating the assertion that a “message read field” is *necessarily* included in the message.

Directly afterwards, the outstanding Office Action further gives citations (“populating said header with address data and processing instruction data”, “processing said data message

³See Thorne, column 9, lines 56-59.

in said second processing device responsive to said processing instruction”) from the independent claims of Thorne stating that the independent claims “provide similar insight.”

However, “processing said data message in said second processing device” is “responsive to said processing instructions” irrespective of whether a “message read field” is included in the message or not, since processing is in any case based on the message read field value, which is part of the processing data instructions included in the message. Therefore, this citation does not provide grounds for substantiating the assertion that a “message read field” is *necessarily* included in the message.

The third and last argument provided by the outstanding Office Action is that Thorne does not provide any other suggestion as to where the message read field would be stored. This, of course, is not suitable to show that the message read field is *necessarily* stored in the message.

To summarize, the outstanding Office Action fails to show that Thorne explicitly or inherently describes that a “secure read count value” as recited in Claim 1 is included in the message. Moreover, the fact that Figure 5B, step 560 of Thorne refers to a message read field and not to a message read flag - assuming a consistent nomenclature - indicates that the message read field is *not* included in the message.

Finally, after the outstanding Office Action concedes that Thorne can not explicitly clear show that a secure read count value is included in the message, Ogilvie is further cited by the outstanding Office Action for this feature.

The outstanding Office Action asserts that Ogilvie describes enhancing the security of the message through the use of information associated with the message. The information provides for security enhancement such as automatic message self removal and limiting the display time of a message and that this information can either be solely embedded in the message or in combination with other software/hardware. Without providing any other

information or argument, the outstanding Office Action then asserts that it would have been obvious to a skilled person to take the system disclosed by Vaudreuil and modify it as indicated by Thorne and Ogilvie such that messages include a secure read count value, since there is need for securing and controlling the circulation and usage of messages as is indicated by Thorne and Ogilvie.

As a matter of fact, Ogilvie does not explicitly disclose a secure read count value as recited in Claim 1 - whether included in the message or not. Moreover, a “secure read count value” is not inherently described by Ogilvie either.

Ogilvie describes an automatic message self removal system that ensures that a given copy of a message can be viewed at most once.⁴ This, at best, provides a similar result as the claimed invention in the specific case that the maximum read count value equals one. In this specific case however, the provision of a read count value is nonsense, since such value would correspond to redundant information. (In order to be readable once, every message that is transmitted with a maximum read count of one is necessarily transmitted with a secure read count value of zero). Therefore, besides not being inherently described by Ogilvie, a secure read count value included in the message would be a redundant feature in the device of Ogilvie.

Moreover, even if the device of Ogilvie and the claimed invention to some extent provide the same effect, Ogilvie does not teach or suggest the *structure* of the claimed invention. It must be noted that the description of self removal in Ogilvie, whereby the message can be read at most once, is very different from limiting the number of maximum reads, whereby the number of maximum reads is specified by a variable included in the message. By including a secure read count value in the message, the claimed invention solves a problem regarding multipath transmission (see p. 9-10 of Applicant’s submission of

⁴See Ogilvie, column 3, lines 35-36.

September 12, 2005). This problem is not relevant to the system of Ogilvie and Ogilvie provides no solutions to this problem.

Consequently, none of Vaudreuil, Thorne and Ogilvie, explicitly or inherently, teach or suggest “wherein messages include meta information containing a plurality of different fields, said meta information including *a secure read count value indicating the current number of times the message has been read* and a maximum read count value limiting the maximum reads of the message” as recited in Claim 1. Therefore, it is respectfully submitted that Claim 1 (and Claims 2-11 dependent therefrom) is patentable over Vaudreuil in view of Thorne and Ogilvie.

Independent Claims 12 and 15 recite similar elements to Claim 1. It is respectfully submitted that Claims 12 and 15 (and Claims 13, 14, and 16-21 dependent therefrom) are patentable over the cited art for at least the reasons discussed above with respect to Claim 1.

With regard to the rejection of Claim 19 as unpatentable over Vaudreuil and Thorne in view of Yokomizo, it is noted that Claim 19 is dependent from Claim 15, and thus is believed to be patentable for at least the reasons discussed above. Further, it is respectfully submitted that Yokomizo does not cure any of the above-noted deficiencies of Vaudreuil and Thorne. Accordingly, it is respectfully submitted that Claim 19 is patentable over Vaudreuil and Thorne in view of Yokomizo.

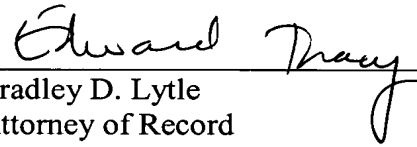
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Accordingly, the pending claims are believed to be in condition for formal allowance.

An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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A handwritten signature in cursive script, appearing to read "Bradley D. Lytle", is written over a horizontal line.

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